IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3741 OF 2006

Mrs.Sharmila Sharad Joshi .. Petitioner.
Vs.
Smt.Philemina D'Silva & Ors. .. Respondents.

Mr.C.J.Sawant i/b Mr.G.H.Keluskar for the petitioner.
Mr.A.P.Vanarse for respondent nos.1 to 3.
Mr.Vilas B.Tapkir for respondent nos.4 and 5.

CORAM : D.B.BHOSALE, J.

DATED : 3RD OCTOBER, 2006

P.C.:

. Heard learned senior counsel for the petitioner and learned counsel for the respondents.

2. Mr.Sawant, learned senior counsel does not press this writ petition and seeks liberty to the petitioner to lead further evidence to establish that the agreement of sale dated 5.11.1994 has in fact been lost and then seek permission to lead secondary evidence as required under section 65(c) of the Indian Evidence Act. The writ petition is disposed of as not pressed with liberty as prayed for. If the application as prayed for is filed the same may be considered on merits in accordance with law. It is made clear that insofar as insufficiency of the stamp and registration of the agreement is concerned it is open for the petitioner to

satisfy the court that the stamp on which the document was executed was sufficient at the relevant time and registration thereof was not necessary. All contentions in respect thereof are kept open. The trial Court shall deal with application as aforestated without being influenced by the order dated 4.2.2006 impugned in the present writ petition. The writ petition is disposed of.

(D.B.Bhosale, J.)